IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3217 OF 2006

Haresh Dipchand Punjabi & Anr. ...Applicants
vs.
Pyarelal Nichaldas Hinduja & Anr. ...Respondents

Mr.S.B.Keshwani for the Applicants
Mr.Yogesh R. Israni for Respondent No.1
Mr.Rajesh More,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 7,2006.

P.C.:

1. Rule. The Advocate for the Respondent No.1 waives service. Learned A.P.P. waives service for second Respondent. Taken up for hearing forthwith.

2. By this Application under section 482 of the Code of Criminal Procedure, 1973 a prayer is made for quashing the proceedings on the basis of F.I.R filed by the first Respondent. In the said F.I.R the allegation of the first Respondent was that the Applicants committed an offence punishable under section 406 read with section 34 of the Indian Penal Code.

3. The learned Counsel for the Applicants invited my attention to the F.I.R filed by the first Respondent. He pointed out that the offence alleged by the first Respondent arises out of a commercial transaction between the parties. According to the case of the first Respondent certain diamonds were supplied by him to the Applicants for which the Applicants refused to pay.

4. An Affidavit has been filed by the first Respondent in

this Application in which it is stated thus :

". I say that the disputes that arose by and between the parties were in respect of breach of trust. All difference and disputes between the parties have been satisfied and nothing survives in the matte. I say that I have received the entire amount due and payable from the Applicants i.e. US $65,139.29p.

. I say that submit that in view of the said facts, it would be a waste of time and no useful purpose would be served if the said proceedings continue."

5. The learned Advocate for the Respondent No.1 has confirmed that the dispute between the parties as regards transaction subject matter of the F.I.R. has been completely settled. I have also heard the learned A.P.P. for state.

6. Considering the nature of allegations made in the F.I.R and the Affidavit filed by the first Respondent before this Court, it will be unjust to continue the proceedings on the basis of the F.I.R. lodged by the first Respondent. Considering the peculiar facts of the case, no useful purpose will be served by continuation of the proceedings.

7.In my view, this is a fit case for exercising power under section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings.

8. Hence, I pass the following order :

. Rule is made absolute in terms of prayer clause (a).

JUDGE